

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Joseph Katz,

Plaintiff,

Civil Action No.: _____

v.

Mercantile Adjustment Bureau, LLC

Defendant(s).

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12 CV 08642
**COMPLAINT AND DEMAND
FOR TRIAL BY JURY**

JUDGE BRICCETTI

Plaintiff Joseph Katz (“Plaintiff” or “Katz”), by and through its attorneys, FREDRICK SCHULMAN & ASSOCIATES, Attorneys at Law, as and for its Complaint against the Defendant Mercantile Adjustment, LLC (“Defendant” or “MERCANTILE”), respectfully sets forth, complains and alleges, upon information and belief, the following:

INTRODUCTION/PRELIMINARY STATEMENT

1. Plaintiff brings this action for damages and declaratory and injunctive relief arising from Defendant’s violation(s) of Sec. 1692 et. seq. of Title 15 of the United States Code, commonly referred to as the Fair Debt Collection Practices Act (“FDCPA”).

PARTIES

2. Plaintiff is a resident of the State of NY, County of Rockland, residing at 19 Calvert Drive, Monsey, NY 10952.

3. Defendant is a New York corporation, and a collection firm with a principal place of business at 6390 Main Street, Williamsville, NY 14221, and, upon information and belief, is authorized to do business in the State of NY.

4. Defendant is a “debt collector” as the phrase is defined and used in the FDCPA.

JURISDICTION AND VENUE

5. The Court has jurisdiction over this matter pursuant to 28 U.S.C. Sec. 1331, as well as 15 U.S.C. Sec. 1692 et seq. and 28 U.S.C. Sec. 2201. If applicable, the Court also has pendent jurisdiction over any State law claims in this action pursuant to 28 U.S.C. Sec. 1337(a).

6. Venue is proper in this judicial district pursuant to 28 U.S.C. Sec. 1331(b)(2).

FACTUAL ALLEGATIONS

7. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered “1” through “6” herein with the same force and effect as if the same were set forth at length herein.

8. Upon information and belief, on a date better known to Defendant, Defendant began collection activities on an alleged consumer debt from the Plaintiff (“Alleged Debt”).

9. On or about December 2, 2011, Plaintiff sent a letter to Defendant, requesting validation of the debt (“Exhibit A”).

10. Defendant failed to provide the verification information requested by Plaintiff.

11. Defendant failed to report the debt to the credit bureaus as disputed (“Exhibit B”).

12. Defendant continued its collection efforts, including placing collection calls to the Plaintiff, despite failing to provide validation.

13. In or around February, 2012, Defendant placed a telephone call to Plaintiff, and left a message on Plaintiff’s shared answering machine (“Exhibit C”).

14. Said message contained personal and confidential information.

15. Said message was an attempt to collect a debt, and was left on an answering machine which was played and heard by one or more third parties who each had the right and opportunity to play same.

16. Said message was heard, amongst others, by the Plaintiff's son, Josh Katz.

17. The actions of Defendant led to embarrassment, harassment, and disclosure of confidential information to a third party.

18. Said actions by the Defendant violated 15 U.S.C. § 1692c(b) which prohibits communicating with anyone except consumer and communicating to a third party, stating that a consumer owes a debt.

19. Said failure on the part of Defendant is a violation of the FDCPA, 15 U.S.C. Sec. 1692e(8), which prohibits a debt collector from communicating false credit information, including the failure to state that the debt was disputed.

20. Said failure on the part of Defendant is a violation of the FDCPA, 15 U.S.C. Sec. 1692g(b), which prohibits attempting to collect a debt and mandates to cease collection efforts until a debt has been validated.

21. As a result of Defendant's deceptive, misleading and unfair debt collection practices, Plaintiff has been damaged.

FIRST CAUSE OF ACTION
(Violations of the FDCPA)

22. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "21" herein with the same force and effect as if the same were set forth at length herein.

23. Defendant's debt collection efforts attempted and/or directed towards the Plaintiff violate various provisions of the FDCPA, including but not limited to 15 U.S.C. Sec. 1692c(b), 15 U.S.C. Sec. 1692e(8), and 15 U.S.C. Sec. 1692g(b).

24. As a result of Defendant's violations of the FDCPA, Plaintiff has been damaged and is entitled to damages in accordance with the FDCPA.

DEMAND FOR TRIAL BY JURY

25. Plaintiff demands and hereby respectfully requests a trial by jury for all claims and issues in this complaint to which Plaintiff is or may be entitled to a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Joseph Katz demands judgment against the Defendant Mercantile Adjustment, LLC as follows:

- A. For actual damages provided and pursuant to 15 U.S.C. Sec. 1692k(a)(1);
- B. For statutory damages provided and pursuant to 15 U.S.C. Sec. 1692k(2)(A);
- C. For attorneys' fees and costs provided and pursuant to 15 U.S.C. Sec. 1692k(a)(3);
- D. For A declaration that the Defendants' practices violated the FDCPA; and,
- E. For any such other and further relief, as well as further costs, expenses and disbursements of this action, as this Court may deem just and proper.

Dated: New York, New York
November 21, 2012

Respectfully submitted,

By: *AP*

Aryeh L. Pomerantz, Esq.
Fredrick Schulman & Associates
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New York, New York 10016
(212) 796-6053
aryeh@fschulmanlaw.com
Attorney for Plaintiff

12/02/11

Joseph Katz
19 Calvert Drive
Monsey, New York 10952

SS#: [REDACTED]

Mercantile Adjustment
6390 MAIN ST S-160
WILLIAMVILLE, NY 14221

Re: Account # 15369416
Original Creditor: National Grid -NY

Dear Sir/Madam:

Be advised that this is not a refusal to pay, but a notice sent pursuant to the Fair Debt Collection Practices Act, 15 USC 1692g Sec 809 (b) that your claim is disputed and validation is requested. This is NOT a request for "verification" or proof of my mailing address, but a request for VALIDATION made pursuant to the above named Title and Section. I respectfully request that your offices provide me with the competent evidence that I have any legal obligation to you.

Please provide me with the following:

*Complete payment history

*Agreement that bears the signature of the alleged debtor wherein he agreed to pay the original creditor.

* Letter of sale or assignment from the original creditor to your company.(Agreement with your client that grants you the authority to collect on this alleged debt.)

*Prove the Statute of Limitations has not expired on this account

*Show me that you are licensed to collect in my state.

I'm sure you know, under the FDCPA Section 809 (b), you are not allowed to pursue collection activity until the debt is validated.

Sincerely,



Joseph Katz

Exhibit A.1

(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

7011 1570 0000 0000 8327 6107

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark
Here

Annotate

Sent to

Street, Apt. No.:

or PO Box No.

City, State, ZIP+4

Mercantile Adjustment

PS Form 3800, August 2006

See Reverse for Instructions

Exhibit A p.2

GE MONEY BANK/LOWES

Address: Account Number:
 PO BOX 965005 798192433587....
 ORLANDO, FL 32896
 (800) 444-1408

Address Identification Number:
 0491323570

Status: Account charged off. \$1,818 written off. \$348 past due as of Dec 2011.

Status Details: This account is scheduled to continue on record until Sep 2017.

Date Opened:	Type:	Credit Limit/Original Amount:
05/2009	Revolving	\$1,710
Reported Since:	Terms:	High Balance:
05/2009	NA	\$1,818
Date of Status:	Monthly Payment:	Recent Balance:
04/2011	\$0	\$1,818 as of 12/2011
Last Reported:	Responsibility:	Recent Payment:
12/2011	Individual	\$15

Account History:

Charge Off as of May 2011 to Dec 2011
 150 days past due as of Apr 2011
 120 days past due as of Mar 2011
 90 days past due as of Feb 2011
 60 days past due as of Jan 2011
 30 days past due as of Dec 2010

Balance History - The following data will appear in the following format:

account balance / date payment received / scheduled payment amount / actual amount paid

Nov 2011: \$1,818 / July 26, 2010 / no data / \$15
 Oct 2011: \$1,818 / July 26, 2010 / no data / \$15
 Sep 2011: \$1,818 / July 26, 2010 / no data / \$15
 Aug 2011: \$1,818 / July 26, 2010 / no data / \$15
 Jul 2011: \$1,818 / July 26, 2010 / no data / \$15
 Jun 2011: \$1,818 / July 26, 2010 / no data / \$15
 May 2011: \$1,818 / July 26, 2010 / no data / \$15
 Apr 2011: \$1,818 / July 27, 2010 / \$54 / no data
 Mar 2011: \$1,783 / July 27, 2010 / \$53 / no data
 Feb 2011: \$1,752 / July 27, 2010 / \$52 / no data
 Jan 2011: \$1,683 / July 27, 2010 / \$50 / no data
 Dec 2010: \$1,615 / July 27, 2010 / \$48 / no data
 Nov 2010: \$1,551 / July 27, 2010 / \$46 / no data
 Oct 2010: \$1,497 / July 27, 2010 / \$45 / no data
 Sep 2010: \$1,191 / July 27, 2010 / \$15 / no data
 Aug 2010: \$1,191 / July 27, 2010 / \$15 / \$15
 Jul 2010: \$1,191 / July 27, 2010 / \$15 / \$15
 Jun 2010: \$1,221 / no data / no data / no data
 May 2010: \$1,483 / no data / no data / no data

Between May 2010 and Nov 2011, your credit limit/high balance was \$1,710

MERCANTILE ADJMNT BUR

Address: Account Number:
 6390 MAIN ST S-160 15369416
 WILLIAMVILLE, NY 14221
 (800) 836-0592

Original Creditor:
 NATIONAL GRID-NY

Address Identification Number:
 0264423997

Status: Collection account. \$75 past due as of Feb 2011.

Status Details: This account is scheduled to continue on record until May 2016.

Date Opened:	Type:	Credit Limit/Original Amount:
12/2010	Collection	\$75
Reported Since:	Terms:	High Balance:
02/2011	1 Months	NA
Date of Status:	Monthly Payment:	Recent Balance:
02/2011	\$0	\$75 as of 02/2011
Last Reported:	Responsibility:	Recent Payment:
02/2011	Individual	\$0
Account History:		
Collection as of Feb 2011		

PNC BANK

Address:	Account Number:
PO BOX 3180	448929816086....

PITTSBURGH, PA 15230

No phone number available

Address Identification Number:
0491323570

Status: Account charged off. \$355,520 written off. \$8,072 past due as of Jun 2010.

Status Details: This account is scheduled to continue on record until Apr 2016.

Date Opened:	Type:	Credit Limit/Original Amount:
02/2004	Revolving	\$350,000
Reported Since:	Terms:	High Balance:
03/2004	NA	\$355,520
Date of Status:	Monthly Payment:	Recent Balance:
06/2010	\$0	\$355,520 as of 06/2010
Last Reported:	Responsibility:	Recent Payment:
06/2010	Joint with PEARL KATZ	\$0

Account History:
Charge Off as of Jun 2010
180 days past due as of Jun 2010, Mar 2010
150 days past due as of May 2010, Apr 2010, Feb 2010, Dec 2009, Nov 2009
120 days past due as of Jan 2010, Oct 2009
90 days past due as of Sep 2009
60 days past due as of Aug 2009
30 days past due as of Jul 2009

Balance History - The following data will appear in the following format:

account balance / date payment received / scheduled payment amount / actual amount paid

Jun 2010: \$355,419 / no data / no data / no data

May 2010: \$354,309 / no data / no data / no data

Apr 2010: \$354,208 / no data / no data / no data

Mar 2010: \$355,117 / no data / no data / no data

Feb 2010: \$354,007 / no data / no data / no data

Jan 2010: \$352,897 / no data / no data / no data

Between Jan 2010 and Jun 2010, your credit limit/high balance was \$350,000

NCO FINANCIAL SYSTEMS

Address:	Account Number:
4315 PICKETT RD	2671....

SAINT JOSEPH, MO 64503
(800) 789-8001

Address Identification Number:
0491323570

Status: Collection account. \$13,638 past due as of Nov 2011. Status Details: This account is scheduled to continue on record until Oct 2016.

Exhibit B. p.2

Exhibit C - Transcript

The message is for Joseph Katz. This is Elizabeth with Mercantile Adjustment Bureau. Contact me regarding important personal business matter. 1800-466-5259, my extension is 2071. This communication is from a debt collector. This is an attempt to collect a debt. Any information obtained will be used for that purpose.